

## REMARKS

This Amendment and Request for Reconsideration ("Amendment") is in response to the June 4, 2007 Office Action ("Office Action").

With the Response, claim 1 is amended; claims 2-50, 52-60 and 68-74 are canceled and new claims 75-77 are presented.

Support for the amendment to claim 1 can be found at least at claims 1, 2 and 10 as originally filed. In addition, support for new claim 75 can be found at least in the specification as published at paragraph [0056] and paragraph [0065]. Moreover, support for new claim 76 can be found at least in the specification at paragraph [0056] and paragraph [0063]. Finally, support for new claim 77 can be found at least in the specification at paragraph [0056] and paragraph [0064].

The scope of the newly added claims does not exceed the scope of original claim 1; therefore no additional search burden is believed to be required. Applicants respectfully request that the new claims be entered.

### **Response to rejection under 35 U.S.C. § 102 (e)**

Claims 1-4, 6-9, 14-18, 20-50 70-72 and 74 stand rejected under 35 U.S.C. § 102 (e) as allegedly being anticipated by U.S. 2007/0066823 to Fleming, et al. (Fleming).

In light of the amendment to claim 1 and cancellation of claims 2-74, the § 102 (e) rejection of pending claims over Fleming is moot. Fleming does not disclose compounds wherein the X substituents are as recited in claims 1 and 75-77.

### **Response to rejection under 35 U.S.C. § 103**

Claims 1-50, 52-60 and 68-74 stand rejected under 35 U.S.C. § 103 as allegedly obvious over Fleming.

With all due respect, a prima facie case of obviousness has not been established in this case. There is no suggestion or motivation either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings to make the claimed compounds. See MPEP § 2142.

Furthermore, the prior art as a whole does not teach or suggest the claimed compounds. *Id.* Accordingly, the claims are not obvious and the rejection should be withdrawn.

Fleming discloses a variety of compounds, the majority of which have three rings, but not four. Some of these compounds are different than the claimed compounds because they have a heteroaryl ring in the location of the ring having the claimed X substituents (for example, see page 13, fourth compound) instead of a phenyl group. The same holds for the ring having the Y substituents (for example, see page 11, first compound) and the ring having the Z substituents (for example, see page 13, first compound). Moreover, other compounds have 5-membered rings in place of a phenyl group such as the compounds of Formula VII at Fleming, paragraph [0018].

None of the compounds in Fleming have X substituents as claimed in amended claim 1 or new claims 75-77. Other than stating that it would have been obvious at the time "to make further generically disclosed compounds," Office Action at page 3, lines 13-14, the Office Action does not indicate why one would have made the specific changes to the Fleming compounds to arrive at the claimed compounds. "[I]mpermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." MPEP § 2142. The office action has not established that the prior art teach or suggest making the specific changes to the Fleming compounds to make the claimed compounds. Accordingly, since a *prima facie* case has not been established, Applicants respectfully request that the rejection be withdrawn.

## CONCLUSION

Applicants believe that Claims 1 and 75-77 are now in condition for allowance. Applicants reserve the right to pursue unclaimed subject matter

in later continuation or divisional applications. Applicants respectfully request that the Examiner grant early allowance of this application. The Examiner is invited to contact the undersigned agent for the applicants via telephone if such communication would expedite this application.

Respectfully submitted,

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